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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,624	07/25/2001	Ronald G. Rodick	AVERP3012US	6464

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Cleveland, OH 44115

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/06/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,624

Applicant(s)

RODICK, RONALD G.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-20 and 22-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-20 and 22-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/25/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the third release liner attached to the lower surface of the second adhesive layer" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 34 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 34 and 35, it has not been adequately disclosed that the release liners are between the claimed adhesive layers and the respective parts of the container to which the adhesive layers are secured without the additional layer of adhesive as seen in Fig. 6 between the first adhesive

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layer 50 and release liner 34. There is no release liner disclosed below adhesive layer 58. The claims allow for the second release liner being present without the additional adhesive layer 32 as seen in Fig. 6 which is new matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-14, 16-20, 22, 24, 25, and 27-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobe et al (US 5,888,335). Regarding claim 1, see Col. 1, lines 52-63, where the fastener is described as a two part fastener with a contact responsive fastening layer and a target surface or release layer which when together has a peel force is between .01 kn/m and 3 kn/m which equates to .0571 lb/in to 17.13 lb/in. See also Col.5, lines 37-44, where the container can be a reusable envelope where the flap has the target surface material layer and the envelope body has the disclosed fastening composition. See also Col. 2, lines 46-49, where the location of the connecting means and the fastening layer may be reversed and the invention involves a reclosable enclosure, i.e. a container. Regarding claim 2, the flap is foldable over the main body portion to bring the release surface and the releasable adhesive into sealing contact. Regarding claim 3, there is no reclosure strip since the

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flap closes the envelope. Regarding claims 4 and 24, the adhesive has a peel strength that is in the claimed range. Regarding claim 5, see the abstract where the adhesive is contact responsive, i.e. pressure sensitive. Regarding claim 6, see Col. 3, line 36 where the adhesive can be an acrylic. Regarding claims 9 and 22, see the Figs.1-5, where the layers are continuous. Regarding claims 10 , 14, and 25, see Col. 5, line 16 where the envelope can be made of paper. See Col. 5, lines 38-44, where the target or release surface can be either part of the envelope or adhered to the envelope, i.e. with a second adhesive. Regarding claims 11 and 12 see Col. 5, lines 5-19, where the release or target surface can be a polymer film that is polypropylene. Regarding claim 13, see Col. 21, example 17, where the reclosable envelope can employ the biaxially oriented Polypropylene film as the target or release surface. Regarding claim 16, the envelope has a fold over flap. Regarding claim 17, the panel from which the flap extends is considered the back panel. The panel of the envelope opposite the back is the front panel. Regarding claim 18, the releasable adhesive can be secured to either the body panel of the flap. Regarding claim 19, the releasable adhesive is a contact responsive fastener or adhesive, i.e. a pressure sensitive adhesive. The adhesive can be acrylic and the release surface can be a polymer film. See example 17 also. The envelope has a flap and the adhesive can be on the flap or the body and the release on the remaining surface. Regarding claim 20, the flap is foldable over the body of the envelope to bring the two surfaces in contact. Regarding claim 27, the envelope has the claimed structure. Regarding claim 28, the flap of the envelope folds over the body and mates with the releasable adhesive since the adhesive can be on either the flap or

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the envelope body. Regarding claim 29, the structure of the flap is typical on an envelope. The flap is substantially the same width as the back panel since the term substantially allows for the flap to be smaller than the back panel that is met by a typical envelope. Regarding claim 30, the part of the envelope that connects the front panel to the back panel is the sidewall. Regarding claim 31, the envelope has the plurality of walls and the claimed structure. Regarding claim 32, the envelope meets the claimed structure. The adhesive can be on either the body or the flap and the release on the remaining surface. The flap folds to make contact between the adhesive and the release. Regarding claim 33, see Col. 5, lines 38-44 where the target or release surface material can be either as part of the envelope or adhered to the envelope, i.e. by the second adhesive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobe et al (US 5,888,335 in view of Howard (US 4,495,318). Kobe et al teaches the continuous adhesive film layers but does not teach the adhesive is in the form of microspheres. Howard teaches applying a low tack adhesive in the form of microspheres. It would have been obvious to employ the microspheres of Howard to

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provide a low tack reusable adhesive as taught by Howard. The adhesive is an emulsion acrylic tacky microsphere adhesive.

Claims 15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobe et al in view of Freedman et al (US 4,543,139). Regarding claim 15, Kobe et al teaches applying the adhesive layer to either the body or the extension with a pressure sensitive adhesive 17 but does not set disclose the peel strength of the pressure sensitive adhesive. Freedman et al, as seen in Fig. 1E, teaches an adhesive layer 12 is secured to the base layer with an adhesive 11 that has a peel strength of at least 1.5 pounds per inch and that the peel strength of this adhesive is at 1.2 or 1.5 times stronger than the releasable adhesive. It would have been obvious to employ the peel strength of Freedman et al in the pressure sensitive adhesive layer to prevent the securing adhesive layer from peeling instead of releasable adhesive layer.

Response to Arguments

Applicant's arguments filed 1/21/04 have been fully considered but they are not persuasive. See Kobe et al in Fig. 4 and Col. 6, lines 47-67, where either one of layers 12 can be a non-tacky layer or a release liner and that layers 31 of each tape 60 and 53 are optional. This allows for one of the layers being present in one tape and not the other. With layer 31 being in tape 53 and upper layer 12 being the non-tacky the structure meets the amended claims. This is inherent in the reference.

Conclusion

The patentability of claims 34 and 35 cannot be established at this time due to the issues under 35 U.S.C. 112 1st, and 37C.F.R. 1.83(a).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

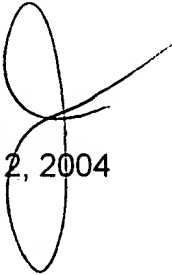
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

JCM
April 2, 2004

A handwritten signature consisting of a large, stylized loop with a horizontal line extending to the right.


LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700